



# Audiovisual media content and children: time for a regulatory update?

Comparing Children's Media around the World:  
Policies, Texts and Audiences  
4 September 2015, London

Prof. dr. Eva Lievens  
FWO Vlaanderen  
Interdisciplinary Centre for Law & ICT – KU Leuven  
Ghent University





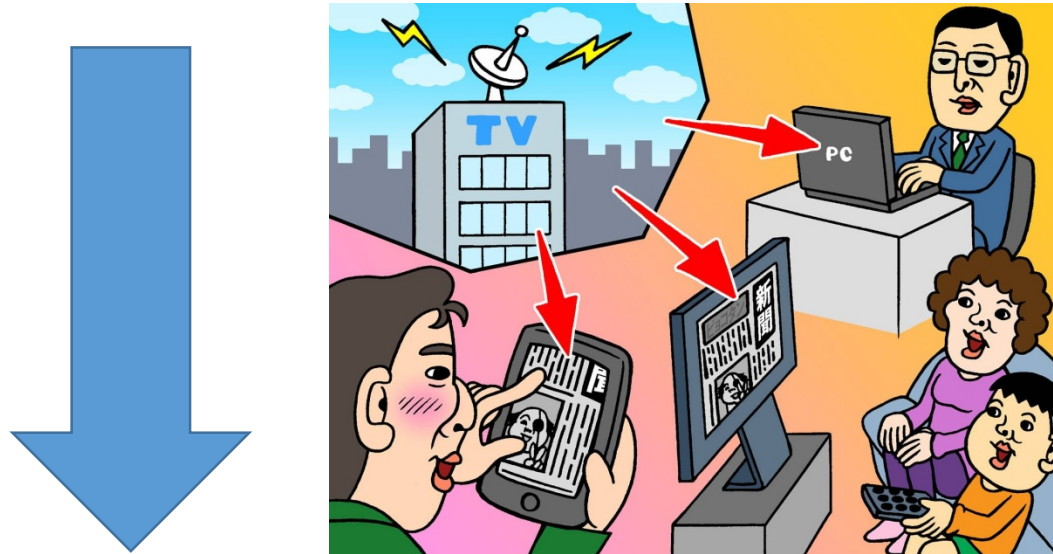
**This Film  
Has Been Passed by the  
National Board  
of Censorship.**

Copyright 1912 Thomas A. Edison Inc.

Patented (Re-Issue) Jan. 12, 1904.

# From TWF to AVMS

1989: Television without Frontiers Directive (amended in 1997)

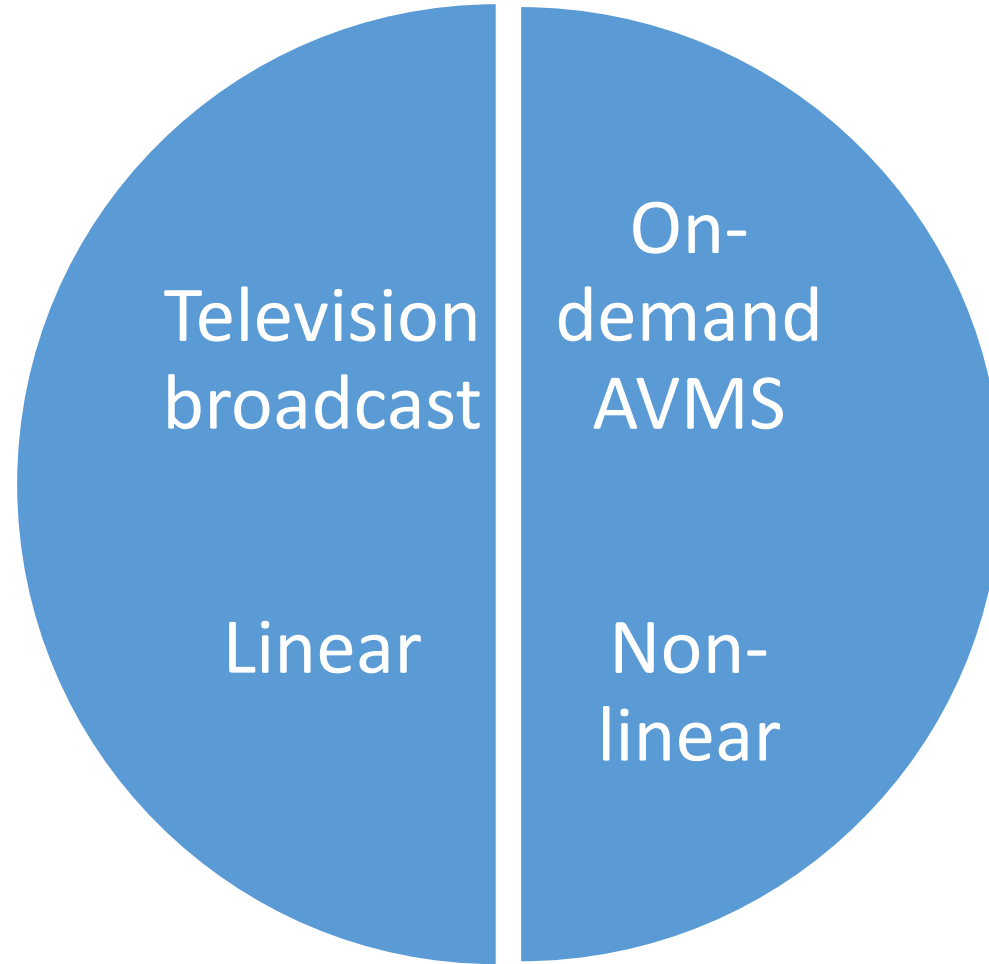


2007: Audiovisual Media Services Directive (AVMSD)

# Audiovisual Media Services Directive

a service as defined by Articles 56 and 57 of the Treaty on the Functioning of the European Union which is under the **editorial responsibility** of a media service provider and the **principal purpose** of which is the provision of **programmes**, in order to **inform, entertain or educate**, to the **general public** by **electronic communications networks**

# Audiovisual Media Services Directive



# AVMSD and protection of minors



# AVMS and protection of minors

## Linear services

### Article 27

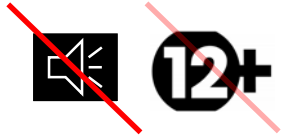
1. Member States shall take appropriate measures to ensure that television broadcasts by broadcasters under their jurisdiction do not include any programmes which might **seriously** impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence.

2. The measures provided for in paragraph 1 shall also extend to other programmes which are **likely** to impair the physical, mental or moral development of minors, except where it is ensured, by selecting the time of the broadcast or by any technical measure, that minors in the area of transmission will **not normally hear or see** such broadcasts.



## Example

Flemish Media Regulator, Decision 2012-32



Violation of article 42 Flemish Media Decree



# AVMS and protection of minors

## Linear services

### Article 27

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## Non-linear services

### Article 12:

Member States shall take appropriate measures to ensure that on-demand audiovisual media services provided by media service providers under their jurisdiction which might **seriously** impair the physical, mental or moral development of minors are only made available in such a way as to ensure that minors will **not normally hear or see** such on-demand audiovisual media services.

(recital 60: personal identification numbers (PIN codes), filtering systems or labelling)

MINIMUM HARMONISATION



# Implementation and application

## Legislators

- Implementation of AVMSD into national legislation
  - Verbatim?
  - More stringent / broader?  
*E.g. France: also absolute prohibition of seriously harmful content*
  - Varying ages, definitions, interpretations, obligations..

*“Content that is seriously harmful,  
may be prohibited or allowed,  
subject to certain watersheds, on traditional television,  
allowed with or without pin codes in the case of on-demand services,  
and be freely visible on the free internet”*

*European Audiovisual Observatory, The protection of minors in a converged media environment, IRIS plus 2015-1,  
<http://www.obs.coe.int>*

# Implementation and application

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## Regulators

- Oversight on compliance with legislative / regulatory instruments
  - Complaints?
  - Decisions?



# Example: application of art. 12 AVMSD

Country	Cases	Infringements
Belgium (Flanders)	0	0
Belgium (Fr. Comm. / Br.)	0	0
Netherlands	1	Decision forthcoming
France	4	4
United Kingdom	52	48

*Based on research of Liesa Keunen (2015) Minors and on-demand AVMS: A comparative study into the implementation and application of article 12 of the EU AVMSD (Master thesis)*





# AVMS REFIT

- April 2013: Green Paper ‘Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values’
- 2013: Public consultation
- 2014: Commission **Feedback paper**
- May 2015: Objective of the **Digital Single Market Strategy**
- Fits within **REFIT** (Regulatory Fitness, Better Regulation Framework)
- **Public consultation** ongoing (open until 30 September 2015)
- **Review** of the Directive in 2016?

“ *The European Commission seeks the views of all interested parties on how to make Europe's audiovisual media landscape fit for purpose in the digital age.* ”

What are the challenges?



# Scope

*Possible difficulties arising from the need for the national regulatory authorities to assess the character of the services existing on the market cannot justify extending the scope of the Audiovisual Media Services Directive to cover in practice all current audiovisual content on the internet*

European Court of Justice, Advocate-General Maciej Szpunar,  
Case C-347/14 New Media Online, 1 July 2015



**PRObeer 1  
MAAND GRATIS**



Speel, kijk & lees!  
Jouw, regarde & lis!

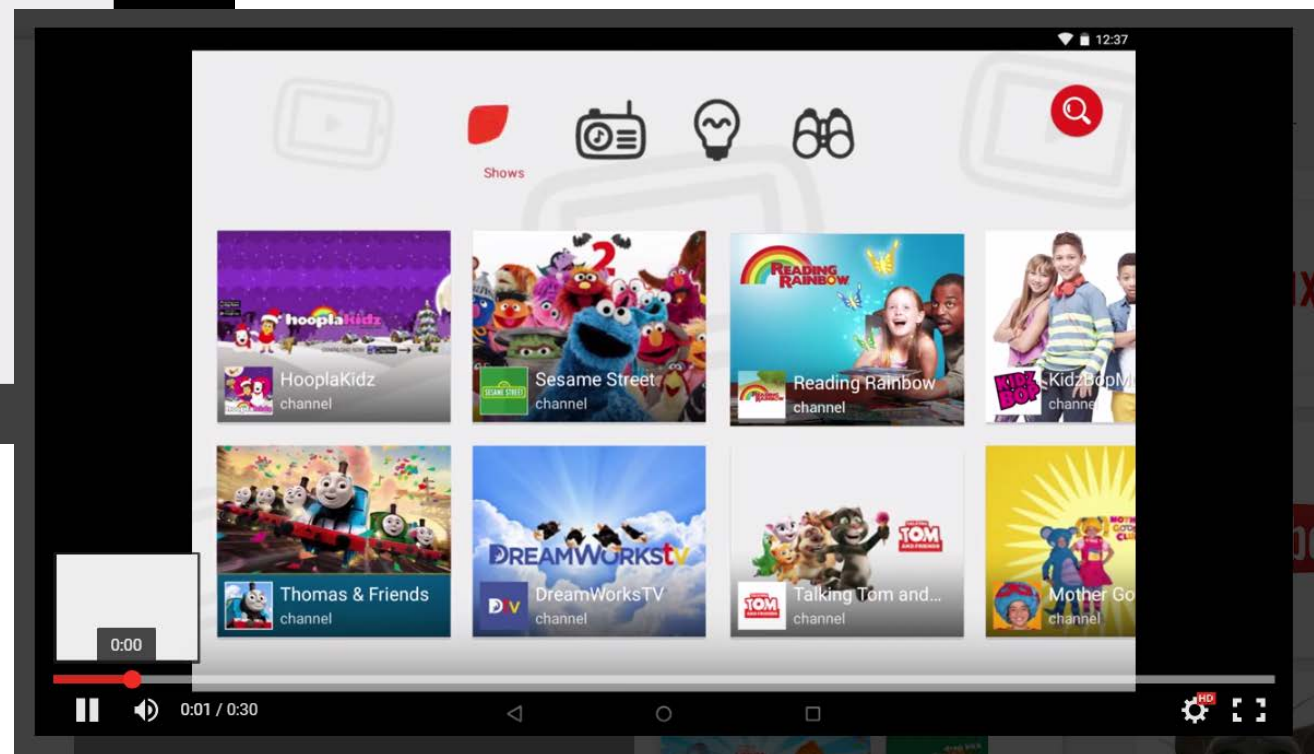
WANAGOGO



**BARCODE**

© 2005 Blackwell Publishing Ltd, *Journal of Internal Medicine* 258: 103–110

CODE IN RUTLEN







# Challenges

- Linear and non-linear increasingly competing on the same screen

Is a different level of regulation wrt minors warranted?

Does this not create confusion or give rise to certain expectations?

Is it clear to users which regulation is applicable and who to complain to?

- Non-level playing field providers EU – rest of the world?
- Non-level playing field providers within EU?
- Non-level protection for minors?

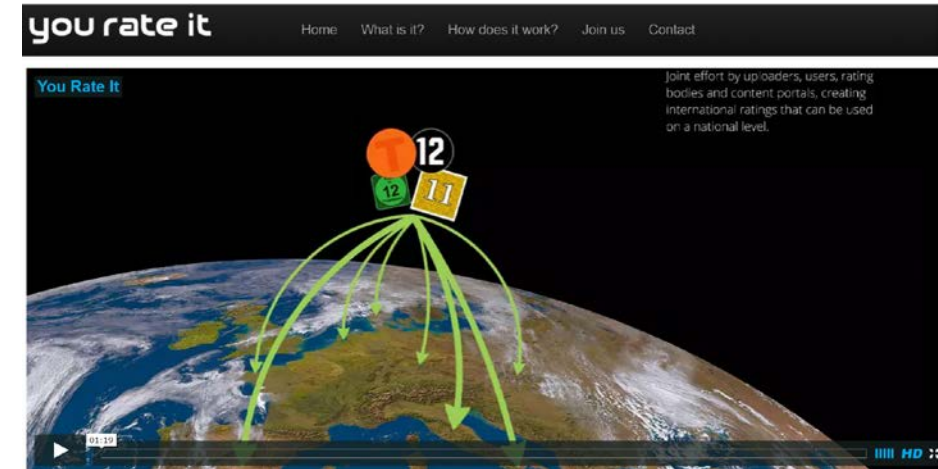
Feedback Paper Commission 2014:  
wide variety of diverging ideas...

e.g. levelling up or levelling down?



# Concluding remarks

- Harmonisation? (*'forum shopping'*)
- Other regulatory options?
  - Self- and co-regulation
  - Technology (in combination with...): e.g. YouRateIt
  - Link with: A European Strategy for a Better Internet for Children
- Privacy and data protection (advertising, subscriptions, profiling, etc.)
- Evidence-based regulation:
  - more research about children's media use!
  - input of media and communications scholars to the ongoing consultation?



<http://www.yourateit.eu/>



Advertising Literacy in a New Media Environment  
Investigating Minors' Persuasion Knowledge in Relation to  
New Advertising Formats

2014-2018

# Thank you!

[eva.lievens@law.kuleuven.be](mailto:eva.lievens@law.kuleuven.be)

[e.lievens@ugent.be](mailto:e.lievens@ugent.be)